

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: 11/20/08

Signature:

(Valerie J. Sarosky)

Docket No.: SMCY-P02-099  
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Richard F. Gladney

Application No.: 10/750,540

Confirmation No.: 5566

Filed: December 31, 2003

Art Unit: 3673

For: METHODS FOR MANUFACTURING  
ENCASED MATTRESSES

Examiner: F. C. Conley

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. 1.181**

MS Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the Notice of Abandonment dated November 14, 2008, Applicants offer the following evidence of a complete, timely-filed response to the non-final office action dated May 1, 2008. The submitted evidence includes a copy of the papers sent with a Certificate of Mailing, dated November 3, 2008, including: a petition for a three-month extension of time under 37 CFR 1.136(a), an Amendment Transmittal Letter, and a complete Response to Non-Final Office Action. Applicants also submit a copy of the return receipt postcard indicating that the papers were received on November 5, 2008.

In view of the foregoing, Applicants submit that the Notice of Abandonment was issued in error, and a withdrawal of the holding of abandonment is hereby requested.

Applicants believe no fee is due with this petition. However, if a fee is due, please charge our Deposit Account No. 18-1945, under Order No. SMCY-P02-099 from which the undersigned is authorized to draw.

Dated: November 20, 2008

Respectfully submitted,

By 

Vasanth Sarathy

Registration No.: L0365

ROPES & GRAY LLP

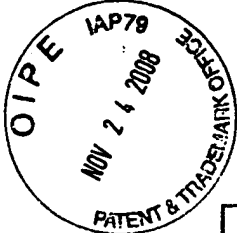
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Attorneys/Agents For Applicant



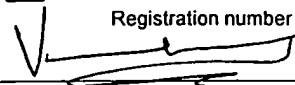
 **COPY**

PTO/SB/22 (10-08)

Approved for use through 10/31/2008. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) FY 2009</b> (Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)		Docket Number (Optional) SMCY-P02-099	
Application Number 10/750,540		Filed December 31, 2003	
For <b>METHODS FOR MANUFACTURING ENCASED MATTRESSES</b>			
Art Unit 3673		Examiner F. C. Conley	
This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.			
The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):			
	<u>Fee</u>	<u>Small Entity Fee</u>	
<input type="checkbox"/> One month (37 CFR 1.17(a)(1))	\$130	\$65	\$ _____
<input type="checkbox"/> Two months (37 CFR 1.17(a)(2))	\$490	\$245	\$ _____
<input checked="" type="checkbox"/> Three months (37 CFR 1.17(a)(3))	\$1110	\$555	\$ <u>1,110.00</u>
<input type="checkbox"/> Four months (37 CFR 1.17(a)(4))	\$1730	\$865	\$ _____
<input type="checkbox"/> Five months (37 CFR 1.17(a)(5))	\$2350	\$1175	\$ _____
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27.			
<input type="checkbox"/> A check in the amount of the fee is enclosed.			
<input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.			
<input checked="" type="checkbox"/> The Director has already been authorized to charge fees in this application to a Deposit Account.			
<input checked="" type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number <u>18-1945</u> .			
WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.			
I am the <input type="checkbox"/> applicant/inventor.			
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).			
<input checked="" type="checkbox"/> attorney or agent of record. Registration Number <u>L0365</u>			
<input type="checkbox"/> attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____			
 _____ Signature		_____ November 3, 2008 Date	
_____ Vasanth Sarathy Typed or printed name		_____ (617) 951-7034 Telephone Number	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
<input checked="" type="checkbox"/> Total of <u>1</u> forms are submitted.			

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: 11/3/08 Signature:  (Valerie J. Sarosky)

# COPY



AMENDMENT TRANSMITTAL LETTER				Docket No. SMCY-P02-099	
Application No. 10/750,540	Filing Date December 31, 2003	Examiner F. C. Conley	Art Unit 3673		
Applicant(s): Richard F. Gladney					
Invention: METHODS FOR MANUFACTURING ENCASED MATTRESSES					
<b>TO THE COMMISSIONER FOR PATENTS</b>					
Transmitted herewith is an amendment in the above-identified application.					
The fee has been calculated and is transmitted as shown below.					
<b>CLAIMS AS AMENDED</b>					
	Claims Remaining After Amendment	Highest Number Previously Paid	Number Extra Claims Present	Rate	
<b>Total Claims</b>	15	- 19 =		x	
<b>Independent Claims</b>	2	- 3 =		x	
Multiple Dependent Claims (check if applicable) <input type="checkbox"/>					
Other fee (please specify): Extension for response within third month					1,110.00
<b>TOTAL ADDITIONAL FEE FOR THIS AMENDMENT:</b>					<b>1,110.00</b>
<input checked="" type="checkbox"/> Large Entity <span style="margin-left: 200px;"><input type="checkbox"/> Small Entity</span>					
<input type="checkbox"/> No additional fee is required for this amendment.					
<input checked="" type="checkbox"/> Please charge Deposit Account No. <u>18-1945</u> in the amount of \$ <u>1,110.00</u> . A duplicate copy of this sheet is enclosed.					
<input type="checkbox"/> A check in the amount of \$ _____ to cover the filing fee is enclosed.					
<input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.					
<input checked="" type="checkbox"/> The Director is hereby authorized to charge and credit Deposit Account No. <u>18-1945</u> as described below. A duplicate copy of this sheet is enclosed.					
<input checked="" type="checkbox"/> Credit any overpayment.					
<input checked="" type="checkbox"/> Charge any additional filing or application processing fees required under 37 CFR 1.16 and 1.17.					
✓ Vasanth Sarathy Attorney/Agent Reg. No.: L0365  ROPES & GRAY LLP One International Place Boston, Massachusetts 02110 (617) 951-7034				Dated: <u>November 3, 2008</u>	
<small>I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.</small>					
Dated: <u>11/3/08</u>		Signature:  (Valerie J. Sarosky)			

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MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: 11/3/08 Signature: Valerie J. Sarosky  
Valerie J. Sarosky

Docket No.: SMCY-P02-099  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Richard F. Gladney

Application No.: 10/750,540

Confirmation No.: 5566

Filed: December 31, 2003

Art Unit: 3673

For: METHOD FOR MANUFACTURING  
ENCASED MATTRESSES

Examiner: F. C. Conley

**RESPONSE TO NON FINAL OFFICE ACTION**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**INTRODUCTORY COMMENTS**

In response to the Office Action dated May 1, 2008, please amend the above-identified U.S. patent application as set forth below. The enclosed petition for a three-month extension of time extends the deadline for responding to November 3, 2008.

**A listing of the claims** begins on page 2 of this paper.

**Remarks/Arguments** begin on page 5 of this paper.



**LISTING OF THE CLAIMS**

1-13 (Canceled)

14. (Previously Presented) A mattress comprising

a substantially rigid bottom panel;

a perimeter sidewall joined to the bottom panel, said bottom panel and perimeter sidewall defining an interior cavity; and

an innercore having a bottom surface, said innercore disposed within the cavity,

wherein said a portion of the bottom surface of the innercore is joined to the bottom panel by an adhesive in a region proximate to the perimeter sidewall, with a remaining portion of the bottom surface being unattached to the bottom panel.

15. (Original) The mattress of claim 14, wherein the innercore comprises pocketed springs and the adhesive bonds fabric surrounding the pocketed springs to the bottom panel.

16. (Previously Presented) A mattress comprising

a platform made of a composite material comprising one or more materials selected from the group consisting of foam, wood, and plastic;

a perimeter sidewall joined to the platform, said platform and perimeter sidewall defining an interior cavity; and

an innercore having a bottom surface, said innercore disposed within the cavity and said bottom surface joined to the platform by an adhesive in a region proximate to the perimeter sidewall, with the bottom surface being unattached to the bottom panel away from the perimeter sidewall.

17. (Previously Presented) The mattress of claim 16, wherein the platform comprises a plurality of layers.
18. (Previously Presented) The mattress of claim 16, wherein the mattress is a two sided mattress, with the platform forming a second sleeping surface.
19. (Previously Presented) The mattress of claim 16, wherein the platform comprises a high density polyurethane foam having a density of approximately 1.85 lbs./cu. ft. and a firmness above 30 ILD.
20. (Previously Presented) The mattress of claim 14, further comprising an upholstery layer disposed over a top surface of the innercore.
21. (Previously Presented) The mattress of claim 14, wherein the perimeter sidewall is made of foam.
22. (Previously Presented) The mattress of claim 14, wherein the bottom panel comprises a layer of high density foam.
23. (Previously Presented) The mattress of claim 14, wherein the bottom panel forms a substantially rigid base platform that comprises a layer made of a material selected from the group consisting of wood, cardboard, plastic or foam, said material capable of providing support to the innercore.
24. (Previously Presented) The mattress of claim 14, wherein the innercore is selected from the group of open coil innercores, fabric-encased spring coil innercores, and springs in foam innercore.
25. (Previously Presented) The mattress of claim 14, wherein the innercore comprises a block of resilient foam.
26. (Previously Presented) The mattress of claim 14, wherein the perimeter sidewall is attached to a peripheral region of a major surface of the bottom panel by an adhesive.

27. (Previously Presented) The mattress of claim 14, wherein the perimeter sidewall comprises a plurality of sidewall sections.

28. (Previously Presented) The mattress of claim 14, and further comprising a wire for securing the innercore against the substantially rigid bottom panel.

29-34 (Canceled)



**REMARKS**

Claims 14-28 are pending in this application. Claims 1-13 and 29-34 were canceled. Claims 14, and 16-28 are previously presented. Claim 15 is original. No new matter is added. Claims 14-28 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Publication No. 2005/0000026 to Richard F. Gladney (hereinafter, "Gladney"). Applicants hereby traverse the rejections and respectfully request reconsideration in view of the remarks set forth below.


The Office Action improperly asserts Gladney as a §102(e) reference to reject claims 14-28 because both Gladney and the present application have the same inventive entity. 35 U.S.C. §102(e) requires the prior reference to be an application or a patent by "another." "Another" means other than applicants, *In re Land*, 368 F.2d 866, 151 USPQ 621 (CCPA 1966), in other words, a different inventive entity. *MPEP* §2136.04. The inventive entity is different if not all inventors are the same. *Id.* (citing *Ex parte DesOrmeaux*, 25 USPQ2d 2040 (Bd. Pat. App. & Inter. 1992)). The inventive entity in Gladney is solely "Richard F. Gladney; the inventive entity in the present application is also solely Richard F. Gladney. The sole inventors in each of Gladney and the present application are identical. Therefore, Gladney cannot be used under §102(e) to reject claims 14-28. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the §102(e) rejections of claims 14-28.

In view of the above amendment, Applicants believe the pending application is in condition for allowance.

We believe that we have appropriately provided for the fees due in connection with this submission. However, if a fee is due, please charge our Deposit Account No. 18-1945, under Order No. SMCY-P02-099 from which the undersigned is authorized to draw.

Dated: November 3, 2008

Respectfully submitted,

By   
Vasanth Sarathy

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Attorneys/Agents For Applicant

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<b>Via:</b> First Class Mail	<b>Atty Dkt No.:</b> SMCY-P02-099
<b>Inventor:</b> Richard F. Gladney	
<b>Application No.:</b> 10/750,540	<b>Filing Date:</b> December 31, 2003
<b>Title:</b> METHODS FOR MANUFACTURING ENCASED MATTRESSES	

**Documents Filed:**

Three Month Request for Extension of Time Under 37 CFR 1.136(a) (1 page)

Amendment Transmittal (1 page)

Response to Non-Final Office Action (6 pages)

Charge \$1,110.00 to deposit account 18-1945

Return Receipt Postcard



<b>Sender's Initials:</b> EJK/VS/vjs	<b>Date:</b> November 3, 2008
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